

Order

**Michigan Supreme Court
Lansing, Michigan**

April 10, 2007

Clifford W. Taylor,
Chief Justice

ADM File No. 2007-12

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Amendment of
Rule 2.107 of the Michigan
Court Rules
(Provision to allow e-discovery
and to clarify filing requirements)

On order of the Court, this is to advise that the court is considering an amendment of Rule 2.107 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing by the Court before a final decision is made. The notices and agendas for public hearings are posted on the Court's website, www.courts.michigan.gov/supremecourt.

Publication of these proposals does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposals in their present form.

[Additions are indicated by underline, and deletions by strikethrough.]

Rule 2.107 Service and Filing of Pleadings and Other Papers

(A-B) [Unchanged.]

(C) Manner of Service. Service of a copy of a paper on an attorney must be made by delivery or by mailing to the attorney at his or her last known business address or, if the attorney does not have a business address, then to his or her last known residence address. Service on a party must be made by delivery or by mailing to the party at the address stated in the party's pleadings.

(1) Delivery to Attorney. Delivery of a copy to an attorney within this rule means

(a) handing it to the attorney personally;

(b) leaving it at the attorney's office with the person in charge or, if no one is in charge or present, by leaving it in a conspicuous place; or

- (c) if the office is closed or the attorney has no office, by leaving it at the attorney's usual residence with some person of suitable age and discretion residing there.
- (2) Delivery to Party. Delivery of a copy to a party within this rule means
 - (a) handing it to the party personally; or
 - (b) leaving it at the party's usual residence with some person of suitable age and discretion residing there.
- (3) Mailing. Mailing a copy under this rule means enclosing it in a sealed envelope with first class postage fully prepaid, addressed to the person to be served, and depositing the envelope and its contents in the United States mail. Service by mail is complete at the time of mailing.
- (4) E-mail. Some or all of the parties may stipulate service of papers by e-mail.
 - (a) The stipulation of service by e-mail shall set forth the following:
 - (i) the e-mail addresses of all stipulating attorneys of record and any of their paralegals or assistants charged with receipt of the attorney's e-mail;
 - (ii) a subject line that identifies the case by party name and case number, along with the title or legal description of the document(s) being sent; and
 - (iii) the primary document format through which the parties shall send and receive documents by e-mail.
 - (b) The sending e-mail address shall allow for receipt of a reply e-mail.
 - (c) E-mail transmission after 4:00 p.m. Eastern Time shall be deemed to be served on the next day that is not a Saturday, Sunday, or legal holiday.

(D-F) [Unchanged.]

- (G) Filing With Court Defined. The filing of pleadings and other papers with the court as required by these rules must be with the clerk of the court, except that the judge

to whom the case is assigned may accept papers for filing when circumstances warrant. A judge who does so shall note the filing date on the papers and transmit them forthwith to the clerk. It is the responsibility of the party who presented the papers to confirm that they have been filed with the clerk. The date the pleadings are filed, which includes receipt by mail, shall be noted on the docketing statement if different from the date the pleadings are docketed.

Staff Comment: The proposed amendments were adopted by the State Bar of Michigan Representative Assembly for submission to the Supreme Court. The proposal would allow parties to stipulate to agree to electronic-discovery, or service of papers among the parties, by e-mail. The proposal would also require that court clerks note the date pleadings are filed if that date is different from the date the filing is docketed.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by August 1, 2007, at P.O. Box 30052, Lansing, MI 48909, or MCS_clerk@courts.mi.gov. All comments will be posted on the Court's website. When filing a comment, please refer to ADM File No. 2007-12.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 10, 2007

Corbin R. Davis
Clerk